

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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VALERIE HALSEY, <i>as Proposed</i>	:	
<i>Administratrix of the Estate of Dorothy</i>	:	
<i>Osborne, deceased,</i>	:	
	:	22-cv-7664 (VSB)
Plaintiff,	:	
	:	<b><u>ORDER</u></b>
-against-	:	
	:	
THROGS NECK OPERATING, LLC,	:	
	:	
Defendant.	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

On September 8, 2022, Defendant filed a Notice of Removal from the Supreme Court, County of Bronx. (Doc. 1.) On September 12, 2022, this case was reassigned to me. On that same day, Defendant filed a letter-motion to stay the case during the pendency of two actions before the Second Circuit Court of Appeals that involve related issues, *Rivera-Zayas v. Our Lady of Consolation*, 21-2164, and *Leroy v. Hume*, 21-2158, 21-2159, scheduled for oral argument on October 31, 2022. (Doc. 5.) On September 13, 2022, I ordered Plaintiff to file a response letter indicating its position on Defendant's motion for a stay. (Doc. 6.) On September 20, 2022, after Plaintiff's deadline passed, I ordered Defendant to serve a copy of that Order and my September 13, 2022 Order on Plaintiff by email or personal service, to file proof of service on the docket on or before September 26, 2022, and for Plaintiff to file a notice of appearance on the docket and a response letter as detailed in my September 13, 2022 Order. (Doc. 7.) Defendant's deadline to file proof of service has passed.

Pursuant to 28 U.S.C. § 1446(d), "[p]romptly" after filing the notice of removal in district court, a defendant "shall [1] give written notice thereof to all adverse parties and shall [2] file a

copy of the notice with the clerk of such State court[.]” Accordingly, it is hereby:

ORDERED that, on or before October 19, 2022, Defendant file proof of its written notice to Plaintiff of removal and proof of its filing the notice with the Clerk of the Supreme Court, County of Bronx, on the docket in this matter. Defendant’s failure to show that it promptly gave Plaintiff written notice of removal may result in remand of this case for Defendant’s failure to complete the removal process pursuant to 28 U.S.C. § 1446. *See Cassara v. Ralston*, 832 F. Supp. 752, 754 (S.D.N.Y. 1993) (“*sua sponte* remand for procedural defects is contemplated by the removal statute”).

IT IS FURTHER ORDERED that, on or before October 19, 2022, Defendant serve a copy of this Order, my September 20, 2022 Order, (Doc. 7), and my September 13, 2022 Order, (Doc. 6), on Plaintiff via email or personal service and file proof of such service on the docket.

IT IS FURTHER ORDERED that, on or before October 26, 2022, Plaintiff file an appearance on this docket and a response to Defendant’s letter-motion to stay. (Doc. 5.) Plaintiff’s failure to do so may result in dismissal of the action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

SO ORDERED.

Dated: October 13, 2022

New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style.

Vernon S. Broderick  
United States District Judge